

REMARKS

The Examiner required restriction/election among the claims under 35 U.S.C. § 121 asserting that the pending claims reflect two groups of inventions and various species that are not so linked as to form a single general inventive concept. The Examiner asserted that the claims fell into the following groups:

Group I. Claims 1-20 and 29, drawn to a method for the treatment of hair; and

Group II. Claims 21-28, drawn to a hair cosmetic composition.

The Examiner's alleged basis for the restriction/election between the inventions is that the claims are generic and have different cationic moieties, aliphatic groups and cationic polymers. The Examiner also alleged that searching Groups I and II and the species therein would pose a serious burden on the U.S. Patent Office.

In response, Applicant provisionally elects, with traverse, the subject matter in Group I (iii)- claims 1-20 and 29, drawn to a method for the treatment of hair using (iii) silicone compounds having cationic groups or groups rendered cationic. Applicant specifically reserves the right to pursue the claims not elected in one or more divisional applications.

Applicant respectfully disagrees with the Examiner's restriction, and submits that the Examiner has not met the burden of establishing two or more independent and distinct inventions claimed in one application under 35 U.S.C. § 121 and that the search poses an undue burden on the U.S. Patent Office. For example, the claims in Groups I (i), I (ii) and I (iii) all include cationic groups or groups rendered cationic. Further the claims include cosmetic compositions employed in hair treatment. Thus, the distinctions between Groups I-II and the species claimed therein are unclear and the Examiner has not established that the inventions in Groups I-II and species therein are independent and distinct.

Moreover, searching each claim group would not pose a serious burden on the U.S. Patent Office, as the Examiner would almost certainly cite the same reference in one group against the other groups (*e.g.*, cationic polymers against cationic surfactants). Applicants submit that separate searches for each of the alleged groups and species would be substantially duplicative, and the Examiner has not demonstrated that a search directed to one group is unreasonable or would present an undue burden on the US Patent Office.

Accordingly, Applicants respectfully request that the restriction/election requirement be reconsidered and withdrawn.

Conclusion

Applicants hereby request a one-month extension of time under 37 CFR 1.136(a) and authorizes the Patent Office to charge Kalow & Springut LLP's credit card. No additional fee is believed to be due with respect to filing this amendment. If any additional fees are due, or an overpayment has been made, please charge, or credit, our Deposit Account No. 11-0171 for such sum.

If the Examiner has any questions regarding the present application, the Examiner is cordially invited to contact Applicant's attorney at the telephone number provided below.

Respectfully submitted,

/William D. Schmidt/
William D. Schmidt
Registration No.: 39,492
Attorney for Applicant

Kalow & Springut LLP
Telephone No.: (212) 813-1600